

March 30, 1954

Attorney General

George F. Nelson, Esq.,
Assistant Attorney General

Airport Zoning

Russell Hilliard, Director,
Aeronautics Commission

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CONCORD, N.H.

Dear Mr. Hilliard:

In reply to your letter of March 26, 1954, I find that there are some variances between the text of your two drafts of suggested airport zoning regulations dated February 23, 1947 and the actual provisions of R.L. c. 51 as amended by Laws of 1949, c. 53.

Under the provisions of R.L. c. 51, s. 83, it is proper for towns to adopt airport zoning regulations and if these proposed regulations were adopted by towns or cities, such ordinances would not be in conflict with the statute.

However, in the event that your Commission, under the provisions of R.L. c. 51, s. 81, V, finds it necessary to impose regulations, such regulations would have to remain within the framework of R.L. c. 51, ss. 78 through 87. In this connection it is noted that by s. 78, IV, "director" means the New Hampshire Aeronautics Commission; and such construction and definition should not only be borne in mind but it would seem to be advisable to authorize the town zoning boards of appeal to amend their regulations from time to time to comply with regulations of the New Hampshire Aeronautics Commission in order to minimize future conflicts between state and municipal standards.

The Nashua Airport Zoning Ordinances contained in the book which you sent to me may be adopted by any town or city which finds them applicable, but it will be noted that c. 51, s. 83, I, provides that no airport zoning regulations shall be adopted, amended or changed except by action of the legislative body of the town in question, after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard after at least fifteen days' notice of the hearing published in a paper of general circulation in the political subdivision. Any variation of the provisions of R.L. c. 51, ss. 78 through 87, as amended by Laws of 1949, c. 53, cannot be put into effect by your Commission to affect any municipality without such opportunity to townspeople to be heard in relation thereto.

I return to you herewith the Nashua Annual Report as requested.

C O P Y

New Hampshire
OFFICE OF ATTORNEY-GENERAL

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I will be glad to go over with you at any time any sections of the existing statute and the proposed regulations which you, from your greater knowledge of aeronautics, may consider likely to conflict with one another.

Very truly yours,

George F. Nelson
Assistant Attorney General

GFM:EP